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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,065	02/25/2004	Nicholas J. Berg	2241.00010000/TGD/JDS	8925
26111	7590	05/15/2006		EXAMINER
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			HILL, LAURA C	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 05/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/785,065	BERG, NICHOLAS J.
	Examiner	Art Unit
	Laura C. Hill	3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 February 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-14 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection as discussed below.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, there is no support in the instant specification for the amended claim that the 'waste material collection chamber' be 'non-disposable'.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Griffiths (US 5,914,047; herein 'Griffiths'). Regarding claim 1 Griffiths discloses a self-cleaning apparatus 10 for transferring, collecting and disposing of waste material from a patient

(column 2, lines 55-62), comprising: a tube/waste material transfer hose 56a for transferring waste material from a patient to the apparatus (column 7, lines 17-18 and figure 1); a non-disposable waste material collection chamber 30 [Note that although the suction chambers, tube sets, and collection chamber liner 146 may be disposable-see column 5, lines 32-43 and column 11, lines 36-41, the collection chamber 30 itself is non-disposable since liquid disinfectant is passed through for repeated use of the chamber] having an inlet in communication with an outlet of the transfer hose 84 (figure 3); a vacuum source 58 connected to waste material collection chamber 30 by a vacuum line [Note the vacuum line is considered to include tubes 50 and 70A in figure 3] (column 7, lines 17-27 and lines 33-34); and a liquid disinfectant reservoir/cleaning fluid chamber 80 (column 7, lines 50-53) being arranged to communicate with and receive the inlet of transfer hose 84 (figure 3) by inserting the inlet of waste transfer hose 84 into the cleaning chamber 80 to permit the cleaning fluid to be transferred to and through the transfer hose 84 and the waste collection chamber 30 to clean the transfer hose and collection chamber (column 7, lines 57-65).

Regarding claims 2 and 11 Griffiths discloses float valves 110a, 110b disposed within the vacuum line (figure 3) to close the vacuum line to prevent waste material within collection chamber 30 from being drawn into the vacuum line by the vacuum source 58 when the collection chamber is filled to capacity (column 8, line 65-column 9, line 10).

Regarding claims 3, 5, 10-11 and 14 Griffiths discloses treated waste peristaltic discharge pump 34 discharges liquid waste from collection receptacle 30 to empty the receptacle (column 6, lines 59-63).

Regarding claims 4 and 13 Griffiths discloses electronic control unit/switch 88 that transmits signals through lines 102 to activate disposal pump drive 104 to pump out waste material from the collection chamber (column 9, lines 10-21).

Regarding claims 6 and 12 Griffiths discloses filter 52 disposed within the vacuum line between vacuum source 58 and floats 110a, 110b (figure 3) to prevent waste from being drawn into vacuum source 58 (column 7, lines 15-17).

Regarding claims 7-8 Griffiths discloses cleaning fluid chamber 80 is positioned upstream of transfer hose 84 inlet and waste collection chamber 30 to permit the cleaning of the transfer hose and collection chamber (column 7, lines 57-65 and figure 3).

Regarding claim 9 Griffiths discloses a suction nozzle 44A connected to the inlet of transfer hose 84 (column 7, lines 17-27).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Hill whose telephone number is 571-272-7137. The examiner can normally be reached on Monday through Friday (off every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Laura C. Hill

Art Unit: 3761

Examiner
Art Unit 3761

LCH

LCH

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

